

DEPARTMENT OF CONSERVATION

## DIVISION OF OIL AND GAS

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October 2, 1985

Ms. Kati Neidig  
U. S. Environmental Protection Agency  
215 Fremont Street  
San Francisco, California 94105

Dear Kati:

I have enclosed the two signed copies of the Oversight Agreement for Fiscal Year 1986. It is our understanding that the copies will also be signed by Frank Covington and one copy returned to me.

Also, the Division is interested in participating in the UIC-Micro pilot project that is being developed by the EPA for UIC reporting. However, the Status Report of the UIC-Micro pilot project indicates that the software is being designed for the IBM AT/PC computer. The Division of Oil and Gas has only IBM XT/PC computers available. Perhaps the program should be expanded to include other models because some agencies may not be able to justify the added expense of the AT/PC model.

If you have any questions, please let me or Bob Reid know.

Sincerely,

*Simon Cordova*  
for M. G. Mefferd  
State Oil and Gas Supervisor

Enclosures

cc: Bob Reid

## UIC OVERSIGHT AGREEMENT

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## PART ONE - Oversight Strategy

### I. Introduction

A. Background. Following delegation of the Underground Injection Control (UIC) program to a State, the Environmental Protection Agency (EPA) remains responsible and accountable to the President, Congress and the public for progress toward national UIC goals. Therefore, EPA's role becomes one of oversight and assistance.

The basis for oversight of a State's program is regulatory in nature. 40 CFR Parts 30, 35 and 40 set forth grant and UIC programmatic requirements. Part 30 requires the State to submit financial status reports and property reports at the end of each grant period. Part 35 requires the program managers to provide guidance to the State regarding programmatic priorities and goals. It also covers evaluation of the States' performance. 40 CFR requires the submission of Annual Program reports and non-compliance reports. In conducting oversight activities, EPA will utilize information resulting from these existing reporting and evaluation requirements as much as possible to minimize the burden on or disruption of the State's implementation of the program. This oversight strategy is based on the applicable regulations, EPA issued guidance [Ruckelshaus's Policy Memo (4/4/84), Revision to GWPB #30 (2/19/85), and UIC Program Guidance #40 (6/28/85)], and experience in oversight of other delegated UIC programs.

B. Oversight Goals. The goals of this oversight strategy are as follows:

- (1) to ensure and document that the State is implementing the UIC program in accordance with the requirements of the Safe Drinking Water Act
- (2) to collect information that will allow EPA to assess nationally, the effectiveness of the UIC program
- (3) to ensure proper grants management
- (4) to provide effective and efficient assistance (technical, financial, and legal) to the State.

For oversight to be most effective, it is important that EPA and the State have a mutual understanding of the oversight process and criteria for evaluation. Therefore, EPA will negotiate an oversight agreement prior to the beginning of the fiscal year. This agreement will set forth the criteria, procedures, and schedule to be used by EPA to evaluate the State's implementation and management of the UIC program. The oversight agreement can be incorporated into the State MOA, the grant agreement, or be set forth as a separate document depending on the preference of the State and EPA. EPA will designate a person as "program manager" for each delegated State. Depending on resources, that person may oversee one or more States. The program manager has lead responsibility for oversight of the primacy State and will serve as the lead contact between the State and EPA for the UIC program.

## II. Elements of Oversight

A. Agreement. The oversight agreement will be drafted by EPA and sent to the State prior to the beginning of the fiscal year. It will be negotiated and agreed to by the State and EPA on or before September 30 of each year. As mentioned above, the agreement document may take a variety of forms, but it will include:

- (1) criteria and measures EPA will use for evaluation
- (2) oversight events that will take place
- (3) general schedule for those events

The logistics of the oversight events may not be spelled out in the oversight agreement, but will be clarified by letter at least one month before the planned events.

### B. State Reporting Requirements.

(1) Grant Reports. EPA will consider information submitted in required reports when evaluating the implementation of the State program. As mentioned in Section IA of this document, the State must submit a Financial Status Report and a Report on Federally-Owned property (inventory on property and its condition) at the end of each grant period. (40 CFR 30.505 (b) and (d))

(2) Quarterly UIC Reports. Beginning in FY86, the annual report forms (Part I, II, and III) will be submitted quarterly to the Regional Program Manager. They will be submitted within one month after the end of the quarter. The first quarter will begin on October 1, 1985. The information on these reports will be cumulative for the federal fiscal year, so that the fourth quarter report will be equivalent to the annual report of previous years. By aggregating annual report data from all States (and DI programs), EPA will be able to calculate and document the nationwide level of activity in the UIC program. This information has and will be used by EPA to establish a tracking and evaluation system for the program.

(3) Inventory Update. The injection well inventory update is required by 40 CFR Part 144.8 (b)(2)(i), and is due by February 28 of each year. However, the State should submit it earlier to facilitate processing and entry into the national data base by March 1 of each year.

(4) Non-compliance Reports. These are required by 40 CFR 144.8(a)(1) and 144.8(b) and are to be prepared quarterly for "major" facilities and annually for all other facilities.

C. Monitoring of State Activities. The program manager will maintain frequent contact with State UIC staff through phone calls and visits. Other EPA staff will be involved with the State as issues dictate. The program manager may perform all of the following activities, but will at a minimum perform one file review each year.

(1) File Reviews. The program manager will utilize a review of the State's files to assess permitting, compliance, and enforcement performance. This review may be done in "random" fashion, or may concentrate on permits or actions in a certain geographic area, geologic formation or on a certain well class. These reviews will be done in advance of the midyear and end-of-year evaluation conferences (discussed in Sections III A and B of this document). The program manager will negotiate with the State on dates for these reviews, the area to be reviewed and on the size and type of file sample to be reviewed.

(2) "Real Time" Reviews. If necessary, the program manager may review draft permits/enforcement actions prior to their release or within the normal public comment periods. This would not be a veto exercise, but a mechanism for overseeing the process as it takes place. This approach would probably be used to a very limited extent for a Class II program, but may be more extensively used for a Class I program.

(3) Quarterly Meetings. These meetings may be held to determine the State's compliance with program requirements. They will be less formal than mid or end-of-year evaluation conferences and may be held in the District Offices, the State's main office or the field.

(4) Inspection Audits. The program manager may evaluate the State's compliance activity by accompanying State inspectors as they do their field work (routine inspections, witnessing MIT's, plugging, or construction). If EPA accompanies the State on such inspections, the program manager will coordinate with the State and will conform to the States' schedule.

(5) Attend Public Meetings. After notifying the State, EPA may attend public hearings or meetings to observe the States' public participation practices. The EPA may also attend meetings of State boards, Commissions, etc., if necessary.

D. Evaluation Conferences. EPA will conduct a midyear and end-of-year evaluation conference with the State at its offices. The basis, criteria, and schedule for these conferences is described in Section III A and B.

Continuous, frequent contact with the State will allow the program manager to provide feedback and technical assistance to the State. This contact will also allow the program manager to more effectively perform the midyear and end-of-year evaluations.

### III. Goals, Mechanics and Criteria for Evaluation Conferences

A. Goals. The midyear and end-of-year evaluation conferences will be conducted to determine:

- the States' performance against commitments during the current budget period,
- identify any changes which should be made to the State's work plan for the remainder of the budget period or for the next fiscal year, and
- provide feedback to EPA on our effectiveness in overseeing and assisting the State.

B. Mechanics. A Midyear Evaluation Conference will be conducted in the seventh month of the fiscal year (or the middle of the budget period). The conference with State UIC staff will be conducted at the State agency office by EPA's program manager. Depending on the issues slated for discussion, other EPA staff may attend the conference. Following the conference and any other on-site activities involved with the evaluation, the EPA representative(s) will conduct an "exit conference" with the State agency director or other appropriate State agency officials. (Unless those officials attended the evaluation conference.)

Following the conference, EPA will draft a Midyear Evaluation Report which summarizes the EPA's evaluation of the State's performance. This report will be sent to the State in draft form within three weeks of the conference. The State will review the draft report and transmit comments to EPA within three weeks of receipt. EPA will finalize the report and forward it to the State within two weeks of receipt of the State's comments.

An End-of-Year Evaluation Conference will be conducted, depending on resources, during the month following the close of the fiscal year (or budget period). EPA will conduct the End-of-Year conference with the State UIC staff at the State offices. As with the Midyear conference, the End-of-Year conference will be led by the EPA program manager with attendance by other EPA officials as appropriate. An "exit conference" will be held with State agency officials. Following the conference, EPA will draft an End-of-Year Evaluation Report which will summarize EPA's evaluation of the State's performance during the budget period. EPA will send this report to the State in draft form within three weeks of the conference. The State will review the draft report and transmit comments to EPA within three weeks of receipt. EPA will finalize the report and forward it to the State within two weeks of receipt of the comments.

For both the Midyear and End-of-Year Conferences, the State attendees will be suggested by EPA but the State will decide on their inclusion. The purpose of the "exit conference" is to apprise the State of EPA's preliminary assessment and major issues that may have been identified.

The format for the Midyear and End-of-Year Reports will, at a minimum, include three major parts:

- I. Summary and Recommendations
- II. Background
- III. Discussion by Program Element (see grant workplan and Section III C for these elements)

C. Criteria for Mid and End-of-Year Evaluations. To evaluate the State's implementation and management of the UIC program, it is necessary to have a basis for expectation and comparison against which the evaluation can be made. The basis is found in the following documents which the Program Manager will review and reference in evaluating the State's performance.

(1) Memorandum of Agreement

EPA will assess whether the State has complied with the procedures and commitments set forth in this Agreement and assess the need for change.

(2) Program Description

EPA will evaluate whether the State's program is being implemented and managed as outlined in this document which was a part of the primacy application.

(3) State Regulations

EPA will check to ensure that the State's actions are in accordance with the State's UIC regulations.

(4) Grant Work Plan

EPA will compare the State's accomplishments with the program of work set forth in the UIC program grant work plan for the budget period.

(5) Grant Award Document

EPA will also reference the budget and grant conditions of the UIC grant award document for the current budget period in evaluating the State's performance.

(6) Prior Evaluation Reports

EPA will review these reports to determine if the State has implemented the recommendations from the previous evaluations.

(7) EPA Operating Guidance

EPA will compare State objectives with the national and regional program priorities set forth in this document.

The following general areas may be reviewed by the EPA during program evaluations to determine the effectiveness of the State's program. These areas are not only topics that may warrant discussion at the evaluation conferences, but are areas that will be considered throughout the oversight process.

#### PROGRAMMATIC/TECHNICAL ELEMENTS

##### (1) Permitting Process

- (a) Technical Quality of Permits
  - Are technical judgments of good quality?
  - Do construction and operation requirements conform with the documents in Section III C of this document?
- (b) Accomplishments vs. Projections
  - Is permit issuance on schedule?
  - Is review of existing well records on schedule?
  - Does the permitting process need to be streamlined?
  - Does the review of existing well records need to be addressed?
- (c) Administrative Efficiency
  - Does the permitting process need to be streamlined?
  - Does the review of existing well records need to be addressed?
- (d) Public Participation
  - How well does the State respond to public comments on proposed permits?
  - Is public notice adequate?
- (e) Exceptions
  - If the State allows exceptions to permitting requirements, are they done according to regulation and in a way that protects USDWs?

##### (2) Compliance Actions

- (a) Inspections
  - What is the quality and extent of inspections?
- (b) Response to Complaints
  - Does the State respond quickly to complaints from the public or requests for assistance from operators?
- (c) Accomplishments vs. Projections
  - Were the expected percentages of MIT's, pluggings and other tests witnessed?
- (d) Review of Operator Reports
  - Did the State review operator reports for compliance with the permit conditions and were appropriate actions taken when necessary?
- (e) Assistance to Operators

##### (3) Enforcement Actions

- (a) Timeliness
  - Were enforcement actions initiated quickly?
- (b) Effectiveness
  - Did the actions chosen by the State resolve the problem?



- (c) Adequacy
  - Were the actions taken appropriate for the event?
  - Were penalties sought or assessed appropriate?
- (d) Emergency Response
  - Did the State respond quickly and appropriately in these events?
- (e) Federal Intervention
  - Is it necessary for EPA to become directly involved in any enforcement action?

#### ADMINISTRATIVE ELEMENTS

- (1) Program Coordination
  - (a) Within UIC
  - (b) With Other State Agencies
  - (c) With Clean Water Act Programs
  - (d) With Superfund/RCRA
- (2) Regulation Revision
  - (a) State Response to Changes in EPA UIC Regulations
  - (b) State Notification to EPA of Proposed Changes to State Regs
- (3) Grant Requirements
  - (a) Adequacy of Property Management
  - (b) Submission of Financial Status Report
  - (c) Compliance with Audit Requirements
  - (d) Compliance with Special Conditions
- (4) Resource Utilization
  - (a) Adequate Staffing
  - (b) Use of UIC monies
- (5) Training
  - (a) Staff Needs Identified
  - (b) Events Held or Attended by State
- (6) Special Studies/Contracts
  - (a) On Target with Schedule
  - (b) Contract Management
- (7) Data Management
  - (a) Maintenance of an Updated Well Inventory
  - (b) Timely and Accurate Submission of Reports and Inventory Updates to EPA

PART TWO - Program Manager's FY 86 Oversight Work Plan for CDOG

The goals and activities outlined in the Oversight Strategy can be consolidated into three general topics: oversight of the State's UIC program, proper grants administration and assistance to the State.

OVERSIGHT OF THE STATE'S UIC PROGRAM.

Send agenda for End-of-Year Evaluation Conference to CDOG	October 1985 (10/4/85)
Conduct End-of-Year file review in Long Beach	October 1985 (10/15-17/85)
Hold End-of-Year Evaluation Conference with CDOG in Sacramento office	October 1985 (10/24/85)
Determine with CDOG the feasibility of conducting file reviews at two District Offices in January or February	November 1985
Assist CDOG in preparing first Quarterly Report and 1985 Annual Report to improve quality of the report and to understand the origin and meaning of the numbers on the report	December 1985
Assure that CDOG submits Inventory Update by January	December 1985
Conduct file reviews at two District Offices	January/February (optional)
Determine with CDOG dates and places for Midyear file review	February 1986
Send Midyear Evaluation Conference agenda to CDOG	March 1986
Conduct midyear file review (at 2 District Offices)	March/April 1986
Hold Midyear Evaluation Conference with CDOG at Sacramento office	April 1986
Prepare and finalize Midyear Evaluation Report	May/June 1986
Accompany CDOG inspectors/technicians on at least one initial and one compliance inspection	June 1986
Determine with CDOG date and place(s) for End-of-Year file review	August 1986

Conduct End-of-Year file review (at two District Offices if not done in January)	September 1986
Send agenda to CDOG for End-of-Year Evaluation Conference	September 1986
Negotiate Oversight/Enforcement Agreement for FY87	September 1986
Implement Oversight/Enforcement Agreement for FY87	October 1986 (10/1/86)
Attend at least one public hearing	If held
Assure that CDOG completes the number of file reviews and MIT's committed to in the FY 86 SPMS and grant work plan	Ongoing

PROPER GRANTS ADMINISTRATION. (This will be done in conjunction with the Grants Administration Branch.)

Monitor grant expenditures vs. products by	
A. Review of Financial Status Report	January 1986
B. Questions during End-of-Year and Midyears	October 1985
	April 1986
C. Ongoing contact with CDOG	Ongoing
Provide guidance to State on FY 87 program priorities to initiate FY 87 grant work plan development	April 1986
Begin discussion of FY 87 grant work plan	May 1986
Draft FY 87 grant work plan received by EPA UIC section	July 1986 (7/1/86)
Review work plan and obtain Regional comments	
Relay comments to State and hold "final" negotiations	July 1986 (7/15/86)
Receive and initiate processing of final FY 87 Grant Application	August 1986 (8/1/86)
Keep State apprised of fund allocations	Ongoing

PROVIDE ASSISTANCE TO CDOG.

Meet with CDOG to determine what additional QA requirements are needed to adequately address the Phase I Project Plan and to assist in formatting the document to be submitted	November 1985
Review previously submitted aquifer exemption requests	1st Quarter
Review new aquifer exemption requests	Within 60 days
Respond to CDOG's request regarding the status of its authority for Geothermal wells under the UIC program	1st Quarter
Develop a Strategy for dealing with Class I and V wells injecting air scrubber wastes and water softener regeneration brines	1st Quarter
Provide conversion program to CDOG for Inventory Update	1st Quarter
Notify CDOG of training opportunities and national meetings	Ongoing
Respond to citizen complaints that may be received by EPA	If needed
Assist State with program revisions	If needed
Determine need for coordination between CDOG and other State agencies if other agencies seek primacy	If needed
Assist CDOG with implementation of any new quality assurance procedures	If needed

This Oversight Agreement Document represents an agreement between the EPA and the CDOG regarding EPA's oversight of the CDOG in its role as primary enforcement authority for the Underground Injection Control program under the Safe Drinking Water Act. It describes the oversight criteria, measures, procedures and protocol for FY86. If any events in the Program Manager's workplan need to be changed, those changes will be made by agreement between the EPA and the CDOG. This agreement, and any changes to the workplan that may be agreed to during the year, will be in effect for the Federal fiscal year 1986.



M.G. Mefferd,  
State Oil and Gas Director  
California Division of Oil and Gas

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Frank M. Covington, Director  
Water Management Division  
EPA, Region 9